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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/609,101

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Michael T. Konczal

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01/26/2005

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EXAMINER

GOINS, DAVETTA WOODS

ART UNIT

PAPER NUMBER

2632

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/609,101

Applicant(s)

KONCZAL, MICHAEL T.

Examiner

Davetta W. Goins

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-- The MAILING DATE of this communication appears on the certificate with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-20 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 7 is objected to because of the following informalities: Claim 7 should include the language “such that the light transmitting means” before the claimed “is viewable wearer” on line 3. Appropriate correction is required.

### ***Allowable Subject Matter***

2. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 5, 16, 17, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Tigwell (US Pat. 4,796,629)

In reference to claims 1, 16, 17, 19, Tigwell discloses a) the claimed light emitting means disposed on a rearward portion of the helmet, which is met by a light 10 located on a conventional motorcycle's helmet 12 (col. 2, lines 10-31; Figure1), b) the claimed switching

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means responsive to deceleration, which is met by any suitable type of accelerometer may be used to measure deceleration for actuating the light (col. 2, lines 10-31), and c) the claimed power source coupled with the light emitting means and the switching means, which is met by a voltage source 38 (col. 2, lines 50-55).

In reference to claims 2, 3, Tigwell discloses the claimed switching means further comprising a circuit adapted for sensing deceleration, which is met by any suitable type of accelerometer may be used to measure deceleration for actuating the light (col. 2, lines 10-31).

In reference to claim 5, Baker discloses the claimed battery, which is met by voltage source 38 (col. 2, lines 50-55).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4, 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tigwell.

In reference to claims 4, 15, 20, although Tigwell does not specifically disclose the claimed primary axis accelerometer and at least one reference axis accelerometer, he does disclose a first

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mercury tilt switch 14 and a second mercury switch 24 (col. 2, lines 15-42). Since Tigwell discloses two different accelerometers one that operates in response to braking and the second in response to acceleration, it would have been obvious to one of ordinary skill in the art at the time of the invention to use two separate accelerometers for a primary and reference axis to ensure that the helmet will provide a visual indication whenever any type of force is detected to warn nearby motorists and pedestrians.

7. Claims 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tigwell in view of DeBeaux (US Pat. 5,416,675).

In reference to claims 8, although Tigwell does not specifically disclose the claimed plurality of light emitting, he does disclose a light 10 located on a conventional motorcycle's helmet 12 (col. 2, lines 10-31; Figure 1). DeBeaux discloses an illuminated helmet including a plurality of LEDs 50 that are actuated by an electronic control circuit 18 (col. 5, lines 42-59). Since both Tigwell and DeBeaux disclose motorcycle helmets including illumination, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of using a plurality of light emitting means as disclosed by DeBeaux, with the system of Tigwell, for a low cost and long lasting illumination that is well known in the art to use.

In reference to claims 9, 14, Tigwell discloses a) the claimed sensor portion adapted for sensing deceleration, which is met by any suitable type of accelerometer may be used to measure deceleration for actuating the light (col. 2, lines 10-31), b) the claimed light emitter portion,

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which is met by a light 10 located on a conventional motorcycle's helmet 12 (col. 2, lines 10-31; Figure1). Tigwell does not specifically disclose the claimed logic portion operably coupling the sensor portion and the light-emitting portion for switching the light-emitting portion based upon selected input from the sensor portion. DeBeaux discloses an illuminated helmet including a plurality of LEDs 50 that are actuated by an electronic control circuit 18 (col. 5, lines 42-59). Since both Tigwell and DeBeaux disclose motorcycle helmets including illumination, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of using a plurality of light emitting means controlled by a logic portion as disclosed by DeBeaux, with the system of Tigwell, such that the pattern and timing of the lights can be controlled during operation.

In reference to claims 10-12, Tigwell discloses the claimed circuit is affixed to headwear, which may be a motorcycle helmet or bicycle helmet, which is met by a light 10 located on a conventional motorcycle's helmet 12 (col. 2, lines 10-31; Figure1).

In reference to claim 13, although Tigwell does not specifically disclose the claimed sensor portion being responsive to deceleration exceeding .005 g, he does disclose any suitable type of accelerometer may be used to measure deceleration for actuating the light (col. 2, lines 10-31). DeBeaux discloses an illuminated helmet including a plurality of LEDs 50 that are actuated by an electronic control circuit 18 (col. 5, lines 42-59). Since Tigwell discloses an accelerometer used to detect the force applied to a helmet and DeBeaux discloses a controller used to operate a plurality of LEDs, it would have been obvious to one of ordinary skill in the art at the time of the

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invention to incorporate the teaching of providing a threshold level for determining deceleration exceeding any amount to provide visual indication only for specific speeds.

8. Claims 6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tigwell in view of Chien (US Pat. 5,570,946).

In reference to claims 6, 18, although Tigwell does not disclose the claimed power source comprising a photovoltaic cell, he does disclose a voltage source 38 providing power to illuminate lamp 36 in the light 10 (col. 2, lines 43-58). Chien discloses a helmet display including a plurality of lights operated by a microprocessor, the lights operated by a rechargeable battery, which can be charged by a device having a higher voltage output (col. 9, lines 8-42). Since Tigwell discloses a means for recharging the battery for the helmet, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of using a photovoltaic cell, such as the rechargeable battery of Chien, with the system of Tigwell, to ensure that power will continuously be provided to operate the visual display on the helmet.

9. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

10. The prior art of record and not relied upon is considered pertinent to the applicant's disclosure as follows. Saul (US Pat. 6,113,243), which discloses a helmet including a display.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davetta W. Goins whose telephone number is 571-272-2957.

The examiner can normally be reached on Mon-Fri with every other Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on 571-272-2964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**DAVETTA W. GOINS**  
**PRIMARY EXAMINER**



D.W.G.  
January 14, 2005

Davetta W. Goins  
Primary Examiner  
Art Unit 2632